



February 4, 2005

HOUSE BILL No. 1350

DIGEST OF HB 1350 (Updated February 1, 2005 12:07 pm - DI 101)

Citations Affected: IC 32-29.

Synopsis: Expenditure from escrow. Prohibits an escrow or closing agent from making a disbursement from an escrow account on behalf of another person unless certain funds have been received to complete the transaction.

Effective: July 1, 2005.

Burton

January 13, 2005, read first time and referred to Committee on Judiciary.
January 25, 2005, referred to Committee on Financial Institutions.
February 3, 2005, amended, reported — Do Pass.

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February 4, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

HOUSE BILL No. 1350

A BILL FOR AN ACT to amend the Indiana Code concerning property.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 32-29-1-12 IS ADDED TO THE INDIANA CODE
2 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
3 1, 2005]: **Sec. 12. (a) As used in this section, "agent" means the**
4 **escrow or closing agent who controls and effects an escrow**
5 **transaction.**

6 **(b) As used in this section, "banking day" means a day on which**
7 **the federal reserve bank is open to the public for carrying on**
8 **substantially all of the functions of the federal reserve bank.**

9 **(c) As used in this section, "check" means a negotiable**
10 **instrument that is drawn on a federally insured:**

11 **(1) bank;**

12 **(2) savings and loan association;**

13 **(3) credit union; or**

14 **(4) savings bank;**

15 **and contains an unconditional order to pay on demand a specified**
16 **sum of money.**

17 **(d) As used in this section, "escrow account" means a checking**



HB 1350—LS 7282/DI 14+

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account with a federally insured:

- (1) bank;
- (2) savings and loan association;
- (3) credit union; or
- (4) savings bank;

that is used exclusively for the deposit of funds transferred electronically or otherwise, cash, money orders, or negotiable instruments that are received by the agent to effect an escrow transaction.

(e) As used in this section, "escrow transaction" means a transaction in which a person, for the purpose of effecting and closing the sale, purchase, exchange, transfer, encumbrance, or lease of an interest in residential real property to another person, provides a written instrument or document, money, negotiable instrument, check, evidence of title to real property, or any other thing of value to an agent to be held by the agent until:

- (1) a specified event occurs; or
- (2) the performance of a prescribed condition;

when it is to be delivered to a specified person by the agent in compliance with applicable instruction. Delivery can be completed either by filing a written instrument or document in the public record or by direct tender to the appropriate person.

(f) As used in this section, "negotiable instrument" has the meaning set forth in IC 26-1-3.1-104(a).

(g) As used in this section, "residential real property" means any real property improved or to be improved with a dwelling to house one (1) to four (4) families.

(h) An agent may not knowingly make a disbursement from an escrow account on behalf of another person unless the following conditions are met:

- (1) The cash, funds, money orders, checks, or negotiable instruments necessary for the disbursement have been:

- (A) transferred electronically to or deposited into the escrow account of the agent and are available for withdrawal and disbursement; or

- (B) physically received by the agent before disbursement and are intended for deposit not later than the next banking day after the date of disbursement.

- (2) The transfers or deposits described in subdivision (1) may be any of the following:

- (A) Cash or electronically transferred funds.

- (B) Certified checks, cashier's checks, checks, or money

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orders that are drawn on an existing account at a federally insured bank, savings and loan association, credit union, or savings bank.

(C) A check issued by the United States or the state of Indiana, or by an agency, instrumentality, or political subdivision of the United States or the state of Indiana.

(D) A check drawn on the escrow account of a title insurance company or title insurance agency, if the agent has reasonable and prudent cause to believe that sufficient funds are available for withdrawal in the account on which the check is drawn at the time of disbursement.

(E) A personal check in a amount not to exceed one thousand dollars (\$1,000).

(i) An agent is not prohibited from advancing an amount not to exceed one thousand dollars (\$1,000) from an escrow account on behalf of a party to an escrow transaction for the purpose of paying incidental fees, including conveyance and recording fees. Incidental fees may be paid in order to:

- (1) effect and close the sale of;
- (2) purchase;
- (3) exchange;
- (4) transfer;
- (5) encumber; or
- (6) lease;

residential real property that is the subject of the escrow transaction.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Financial Institutions, to which was referred House Bill 1350, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Page 2, line 42, delete "official".

and when so amended that said bill do pass.

(Reference is to HB 1350 as introduced.)

BURTON, Chair

Committee Vote: yeas 8, nays 0.

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